

8th March 2012 New HUD Regs on Gender Identity, Sexual Orientation Discrimination Go Into Effect

New federal regulations became effective on March 5, 2012, that ban discrimination in HUD-funded housing based on actual or perceived gender identity, sexual orientation, and family composition. Specifically, the rules include:

- Prohibiting owners or operators of HUD-assisted housing from asking about an applicant's sexual orientation and gender identity, as well as on HUD forms;
- Prohibiting Federal Housing Administration-insured lenders from denying mortgages to individuals based on their perceived or actual sexual orientation and gender identity; and
- Giving equal access to HUD programs for eligible families, regardless of their sexual orientation and gender identity.

HUD announced the final rule on January 30, 2012, on its Web site [http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2012/HUDNo.12-014] ; the text of the final rule is here [<http://portal.hud.gov/hudportal/documents/huddoc?id=5359-F-02EqAccessFinalRule.pdf>] . The rules protect not just, for example, housing voucher holders, but their households as whole. HUD's press release states that

...all otherwise eligible families, regardless of marital status, sexual orientation, or gender identity, will have the opportunity to participate in HUD programs. In the majority of HUD's rental and homeownership programs the term "family" already has a broad scope, and includes a single person and families with or without children. HUD's rule clarifies that otherwise eligible families may not be excluded because one or more members of the family may be an LGBT individual, have an LGBT relationship, or be perceived to be such an individual or in such relationship.

The new regulations have the potential to be controversial in the same way as the recent national discussion about federal rules requiring faith-based institutions who provide their employees health insurance to cover contraception. In the comments section of the document publishing the final rules, HUD noted that,

A commenter stated that the rule may force faith-based and other organizations, as a condition of participating in HUD programs and in contravention of their religious beliefs, to support shared housing arrangements between persons who are not joined in what the commenter referred to as "the legal union of one man and woman." Another commenter explained that, while not insisting that any person should be denied housing, faith-based and other organizations should retain the freedom to make housing placements in a manner consistent with their religious beliefs. The commenter further stated that the rule, by infringing on religious freedom, may have the ultimate effect of driving away faith-based organizations with a long and successful track record in meeting housing needs. The commenter concluded that given their large role in serving unmet housing needs, it is imperative that such faith-based organizations not be required to compromise or violate their religious beliefs as a condition of participating in HUD-assisted housing programs and receiving government funds to carry out needed services.

HUD's response to the above was:

Faith-based organizations have long been involved in HUD programs and provide valuable services to low-income populations served by HUD. It is HUD's hope that faith-based

organizations will continue to actively participate in HUD programs. However, the exclusion of an individual or family from HUD housing for no reason other than that the individual is LGBT or the family has one or more LGBT members is inconsistent with HUD's mission to ensure decent housing and a suitable living environment for all. Accordingly, it is incumbent on HUD to ensure that the regulations governing its housing programs make clear that such arbitrary exclusion will not be tolerated.

The Department of Mental Health's Housing Manual has stated since at least 2006 that DMH does not discriminate on the basis of sexual orientation, along with other protected categories, in its Shelter Plus Care programs.

Posted 8th March 2012 by Missouri DMH Housing Unit

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